

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

## UNITED STATES DISTRICT COURT

for the

District of New Mexico



MARC GRANO, et al.,

Plaintiff

v.

STATE OF NEW MEXICO, et al.,

Defendant

Civil Action No. 1:20-cv-00147-PJK-KK

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Christus St. Vincent, Attention: Medical Records Department, 455 St. Michael's Drive, Santa Fe, NM 87507

(Name of person to whom this subpoena is directed)

☒ **Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material. All records described in Attachment A to this subpoena. A valid medical release is provided as Attachment B.

Place: email to annacmartinezesq@gmail.com AND to  
joe@romerolawnm.com or mail to P.O. Box 25304,  
Albuquerque, NM 87125 (if you cannot send electr.)

Date and Time:

Oct. 11, 2021 by 5:00 PM

☐ **Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/23/2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Marc Grano as P.R. for the W.D. Estate of Jonathan Garcia, et al., who issues or requests this subpoena, are: Anna C. Martinez, P.O. Box 25304, Albuquerque, NM 87125, annacmartinezesq@gmail.com, (505) 350-1840

## Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).



AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 1:20-cv-00147-PJK-KK

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for (name of individual and title, if any) Christus St. Vincent  
on (date) \_\_\_\_\_

☒ I served the subpoena by delivering a copy to the named person as follows: to Yolanda  
Ortiz at Christus St. Vincent  
on (date) 9/24/2021; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ 0

My fees are \$ 76.16 for travel and \$ 50.00 for services, for a total of \$ 126.16

I declare under penalty of perjury that this information is true.

Date: September 24, 2021

[Signature]  
Server's signature

Brandon Cummings

Printed name and title

P.O. Box 25304  
Albuquerque, NM 87125

Server's address

Additional information regarding attempted service, etc.:

SERVED TO YOLANDA ORTIZ  
@ 2:40 PM 9/24/2021



**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

MARC GRANO as personal representative  
of the WRONGFUL DEATH ESTATE  
OF JONATHAN ANDREW GARCIA  
and a Next Friend to J.O.G., A.S.R., An.J.G  
and Ar.J.G

Plaintiff,

v.

Case No. 1:20-cv-00147-PJK-KK

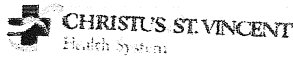
STATE OF NEW MEXICO, GREGG  
MARCANTEL, New Mexico Secretary of  
Corrections, DAVID JABLONSKI, New  
Mexico Secretary of Corrections,  
CLARENCE OLIVAS, Deputy Warden  
Of Penitentiary of New Mexico, BRIAN  
LUCERO, Corrections Officer, FNU  
MARTINEZ, Corrections Officer, FNU  
BACA, Captain, Corrections Officer, FNU  
WELLS, Sergeant, Corrections Officer, and  
JOHN DOES 1 through 5, employees,  
staff, agents of Penitentiary of New Mexico,  
Defendants.

**ATTACHMENT 1 TO SUBPOENA TO CHRISTUS ST. VINCENT**

The records to be produced are:

Complete and legible copies of any and all medical records and reports, clinical notes, doctor's notes and orders, nurses' notes, patient history, subjective and objective complaints, x-rays, diagnostic studies and results, diagnoses and prognoses; emergency room records or logs, history and physical examination reports, laboratory, pathology and x-ray reports, reports of operation, operating log, progress notes, physical therapy records, admission and discharge summaries, and all out-patient records, psychiatric and psychological reports and records' itemized hospital bills, doctors' bills, or other like bills, billing records, or statements for services rendered, bills for medication, and any other document or records in your possession relative to undersigned's physical, mental, and/or emotional condition for dates of service on or between February 20, 2007 to February 28, 2017, for patient Jonathan Garcia, DOB 01/28/1987, SSN:XXX-XX-3143.





# Authorization for Use and Disclosure of Protected Health Information

## Patient Identification

Printed Name: Jonathan Andrew Garcia Date of Birth: 01/28/1987  
 Address: DECEASED  
 Telephone: ( )

## Information to be Released – Covering the Periods of Health Care

From (date) /02/20/2007 To (date) 02/28/2017

Please check type of information to be released:

<input checked="" type="checkbox"/> Complete health record	<input checked="" type="checkbox"/> Diagnosis & treatment codes	<input checked="" type="checkbox"/> Discharge summary
<input checked="" type="checkbox"/> History and physical exam	<input checked="" type="checkbox"/> Consultation reports	<input checked="" type="checkbox"/> Progress notes
<input checked="" type="checkbox"/> Laboratory test results	<input checked="" type="checkbox"/> Radiology reports/images	<input checked="" type="checkbox"/> Cardiac imaging
<input checked="" type="checkbox"/> Photographs, videotapes	<input checked="" type="checkbox"/> Complete billing record	<input checked="" type="checkbox"/> Itemized bill
<input checked="" type="checkbox"/> Discharge Instructions	<input checked="" type="checkbox"/> Pulmonary function results	<input checked="" type="checkbox"/> Immunization Record
<input checked="" type="checkbox"/> Release Of Information (ROI) Abstract – History & Physical (H&P), Discharge Summary, Labor & Delivery Note, Operative Report, Procedure Note, Consultation, Laboratory, Pathology, X-ray reports.		
<input type="checkbox"/> Other (specify) _____		

## Purpose of Request

<input type="checkbox"/> Treatment or consultation	<input type="checkbox"/> At the request of the patient	<input type="checkbox"/> Billing or claims payment
<input checked="" type="checkbox"/> Other (specify) <u>Legal</u>		

## Send/Release Information: ☐ Hospital Records ☐ Records from Clinic Name/Provider

☐ Paper ☐ CD (if available) ☐ Electronic Portal (E-mail notification when access is available) ☐ E-mail  
 Unencrypted electronic transmissions are not secure. Although it is unlikely, there is a possibility that information in an unencrypted electronic transmission can be intercepted and read by other parties besides the person to whom it is addressed. \*Please initial if you have requested your information to be sent to you in an unencrypted electronic format.

Release to Name: Anna C. Martinez, Attorney at Law and Joseph M. Romero, Attorney at Law and their staff

Mail to Name: Anna C. Martinez, Attorney at Law

Mail to Address: P.O. Box 25304, Albuquerque, NM 87125

E-mail Address: annacmartinezesq@gmail.com AND joe@romerolawnm.com

## Substance Use Disorder, and/or Psychotherapy, and/or HIV/AIDS Records Release

I understand that if my medical or billing records contain information in reference to substance use disorder and/or psychotherapy treatment I have been afforded the opportunity to sign a specific authorization. Initial One: Yes No Not Applicable

I understand if my medical or billing records contain information in reference to HIV/AIDS (Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome) testing and/or treatment I have been afforded the opportunity to sign a specific authorization. Initial One: Yes No Not Applicable

## Time Limit & Right to Revoke Authorization

Except to the extent that action has already been taken in reliance on this authorization, at any time I can revoke this authorization by submitting a notice in writing via email to the facility Privacy Officer at [CSV-ComplianceOfficer@stvin.org](mailto:CSV-ComplianceOfficer@stvin.org) Unless revoked, this authorization will expire on the following date or event until the completion of litigation or 180 days from the date of signature.

## Re-disclosure

I understand the information disclosed by this authorization may be subject to re-disclosure by the recipient and no longer be protected by the Health Insurance Portability and Accountability Act of 1996. The facility, its employees, officers and physicians are hereby released from any legal responsibility or liability for disclosure of the above information to the extent indicated and authorized herein.

## Signature of Patient or Personal Representative or Legally Authorized Representative Who May Request Disclosure

I understand that I do not have to sign this authorization and my treatment or payment for services will not be denied if I do not sign this form unless specified above under Purpose of Request. I can inspect or copy the protected health information to be used or disclosed.

I authorize CHRISTUS St. Vincent Health System to release the protected health information specified above.

Signature: [Signature] Date: 9/20/21

Authority to Sign if not Patient: Personal Representative of the Wrongful Death Estate

Identity of Requestor Verified via: ☐ Photo ID ☐ Matching Signature ☐ Other, specify \_\_\_\_\_

Verified by: \_\_\_\_\_

ATTACHMENT 2